IN THE HIGH COURT OF UTTARANCHAL AT NAINTIAL

Writ Petition No. 937 of 2004 (M/B)

Ms/ Allied Photographics India Ltd.
C-2/1, Selakui, Industrial Estate,
Dehradun …… Petitioner

Vs.

1. U.P. Financial Corporation
   76, Rajpur road, Dehradun,
   through its Regional Manager.
2. Deputy Commissioner (Central Excise),
   Dehradun. …… Respondents.

Mr. Sharad Sharma / Mr. Bhupendra Singh, Advocates, learned counsel for the petitioner.
Mr. V.B.S. Negi, Senior Standing Counsel, Government of India.
Mr. Naresh Pant, learned counsel for the U.P.F.C.
Mr. P.R. Mullick, learned counsel for the intervener.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Rajesh Tandon, J.

Dated: 07.12.2004.

[Per Hon. the Chief Justice]

1. Heard learned counsel for the parties.

2. It is seen from the contents that the present petition is for the issue of mandamus directing the Deputy Commissioner (Central Excise), Dehradun, to remove the lock and seal put by the respondent no. 2 on the main gate of the premises of the petitioner. It is seen that these premises used to be owned by the M/s Doon Polymicrons (P) Ltd. against whom action under section 29 of the State Finance Corporation Act, 1951, was taken by the first respondent- U.P. Financial Corporation, which action ultimately resulted into the sale of the land and building owned by the said M/s Doon Polymicrons (P) Ltd. It seems that thereafter possession of the said building was taken over by the petitioner through some subsequent sales. We are not concerned with that. It has come before us that the Deputy Commissioner, Central Excise, Dehradun has some dues to recover against the M/s Doon Polymicrons (P) Ltd. and, therefore, they attached the machineries and since these machineries were in the present land and building allegedly possessed by the petitioner M/s Allied

Photographics India Ltd., they put their lock by order dated 05.08.2004. Now, it is that order, which is being challenged before us.

3. The contention of the petitioner is that the petitioner was never heard and the locks were put in behind their backs and the petitioner is left with no other remedy. It is for this reason, the matter has now been put before us.

4. It is reported that the said M/s Doon Polymicrons (P) Ltd has also gone under liquidation or at least the proceedings are pending for the same and the Hon'ble the Company Judge has already admitted the petition under section 434 of the Companies Act, 1956 vide order dated 29.08.2004. In that view, it will be better for the petitioner to go before the Hon'ble Company Judge, before whom the matter is pending. As it is under Rule 106 of the Company (Court) Rules, 1959, that there shall be an appointment of Provisional Liquidator and we presume that the appointment has already been made under the Company (Court) Rules, 1959. Be that as it may, the petitioner may go before the Hon'ble Company Judge because now the learned Company Judge will be dealing with the properties of the company under liquidation. This is apart from the fact that if the petitioner so chooses, he may challenge the order of attachment or object to the same departmentally also. With there observations, the petition is disposed of.

(V.S. Sirpurkar, C.J.)

(Rajesh Tandon, J.)

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